

PLAINTIFFS PAY DEARLY

Judge Robinson has signed a decree in the accounting and injunction suit of W. W. Ahana, C. Ah Chow, Tai Yuen and Jack Sam, partners in the firm of Kwong Fung Wai Co., against W. Wa Yat, Lam Yip and Wong Kwai. The decree awards W. Wa Yat, solely, \$2325.50 and costs against the complainants. The injunction is dissolved and defendants are granted their costs against complainants, including a stenographer's fee of \$74.45 incurred by the referee.

BAIL MONEY REFUND.
An appeal by Benjamin Edwards from conviction of gross cheat in the Honolulu District Court before Judge Lindsay, where he was second district magistrate, on May 19, 1904, was moved on the calendar for the purpose of having a nolle prosequi entered, which was done on motion of Deputy Attorney General Fleming yesterday. It was ordered that defendant's cash bail of \$100 be refunded. Defendant was tried for obtaining a bill of \$25 worth of goods from the store of M. Rosenberg & Co., on the false representation that he was a seaman on the ship A. G. Ropes, and on being found guilty was sentenced to be imprisoned at hard labor for three months and to pay costs of \$3.50. He appealed with the above-mentioned result of discharge at the instance of the prosecution.

DIVORCE SUITS.
A divorce bill has been filed by Joaquin A. Camara against Augusta Julia Camara for desertion and criminal relations with two different persons. The parties were married at Punalu, Island of Madeira, in August, 1881, and have a son fourteen years of age. A. G. Correa represents libellant and E. A. Douthitt, libelee, an answer of general denial having already been filed by the latter.

A motion for publication of summons has been granted by Judge De Bolt in the divorce case of Ella K. Baker vs. Edward N. Baker, on motion of Ashford for libellant.

EXECUTION UNSATISFIED.
Wm. Henry, High Sheriff, returned execution for \$275.14 1/2 and interest in the suit of William O. Smith vs. John Richardson et al. as wholly unsatisfied. The sale last Saturday realized \$40.25, but the expenses were \$42.50 and the High Sheriff collected \$3.10 from the plaintiff to square the account.

COURT ITEMS.
Judge Lindsay approved the accounts and granted the discharges of Samuel Kallimah, administrator of the estate of J. Pinao, deceased, Kahana Pinao, female, aged 22 years, of Honolulu is the sole heir to the property.

Godfrey vs. Rowland is still on before Judge Robinson, the case for the defendant not being concluded.

Judge De Bolt overruled the demurrer of P. Danson Kellett, Jr., to indictment for embezzlement. The ground of demurrer was that the statute does not mention the office of "trustee" as one in which embezzlement may be committed.

H. F. Bertelmann underwent further cross-examination from Assistant District Attorney Dunne for the entire day yesterday before U. S. Judge Dole. L. M. Straus for defendant made many objections and once was requested by the court to sit down.

RESISTANCE BY AUDITOR

(Continued from Page 1.)

Before any money can be paid on a contract under the Loan Act, the Auditor must endorse on it a certificate that there remains unexpended and unapplied a balance in the appropriation, under that Act, sufficient to meet the particular contract. As to certifying contracts under this year's appropriations while there was enough loan fund cash to meet them in the treasury from the last loan floated, Auditor Fisher has "made no bones" since he received the following opinion in that regard from the Attorney General's department:

Honolulu, T. H., Nov. 9, 1905.
Hon. A. J. Campbell, Treasurer of the Territory of Hawaii.

Dear Sir: In response to your request for the opinion of this department of date October 27, 1905, as to whether or not a contract can be entered into with one of the officers of the Territory of Hawaii, involving an expenditure of Territorial funds, without a certificate from the Auditor of the Territory that there remains unexpended and unapplied a balance in the fund or appropriation already made for such purpose, sufficient to cover the amount involved in such contract or agreement, we give you the following advice:

Act 6 of the Special Session of the Legislature for the year 1905, making special appropriations for the use of the Government of the Territory of Hawaii during the two years which will end with the 30th day of June, A. D. 1907, appropriates various sums of money for public improvements within the Territory of Hawaii, amounting in the sum total to \$1,377,000.00. Such sum was expressly appropriated by Section 1 of Act 6 above referred to, out of any moneys which may be received by the Treasurer for or on account of the Loan Fund during the biennial period ending June 30, 1907, inclusive of any balance which may be brought forward from the previous biennial period. It is clear that the intention of the Legislature was that the money to pay for the improvements contemplated by Act 6 of the Special Session of 1905, should be raised by the sale of Territorial Bonds from time to time during that biennial period, and so long as there remains unexpended and unapplied a balance in the appropriation under that Act, sufficient to meet any contract awarded thereunder, the Auditor must give the required certificate.

I have the honor to be, sir,

Very respectfully yours,
M. F. PROSSER,
Deputy Attorney General.

Now, however, there is not enough cash from the old loan to meet the payments due on Whitehouse's contract. Auditor Fisher will not accept the above opinion as authority for certifying the contract in the absence of actual cash to meet the entire amount. As already stated, the Governor, the Superintendent of Public Works and the Attorney General disagree on this point with the Auditor.

Attorney General Peters has furnished an opinion on the question to Superintendent Holloway. It is too lengthy to reproduce here, but the Attorney General has given an Advertiser reporter the following gist of it:

"The proposition or principle I contend for is that it is not a question of the work to be done that controls. It is the time at which the payment is to be made."

"The appropriation bill says that a contract shall be void if not endorsed by the Auditor, that there is a balance of the appropriation unexpended and unapplied. The Auditor interprets this to mean not the appropriation, but money actually in the treasury."

"My opinion is that it means the appropriation on the face of the bill and that the Auditor should certify the contract, so that payment in part may if feasible be made now and the contract be rendered valid against cash from the new loan when it comes."

Besides the reservoir contract there has been one of about \$28,000 for water pipe awarded to Theo. H. Davies & Co., Ltd., which is now in the hands of the contractor for signing. Auditor Fisher has announced that he will also refuse to endorse this contract.

In these cases the Auditor declines to accept the opinion of the Attorney General as his guide. Therefore the dispute will, in all probability, be carried to the Supreme Court within a few days.

WASHINGTON STAR'S CHAT ABOUT ATKINSON

(From the Washington Star, Dec. 3.)
An economic and social evolution is impending in Hawaii, according to Mr. A. L. C. Atkinson, Secretary of the Territory of Hawaii and President of the Territorial Board of Immigration, who is now in Washington. Mr. Atkinson evidently is not in sympathy with the doleful story told by Prince Iowah J. Kalaniana'ole, delegate in Congress for Hawaii, who said, upon his arrival in Victoria the other day, that Hawaii was in the throes of commercial disaster, due to the fact that Chinese were not admitted as laborers, and that the Japanese and Portuguese were leaving the islands in great numbers. The prince-delegate is reported to have said that the remedy lay with Congress and that the Chinese exclusion laws would have to be modified, in so far as Hawaii was concerned.

Mr. Atkinson, however, is working along another line, and he is looking over the ground from a more optimistic point of view. He is here to interest a better class of immigrants, and from this country he will go to Europe and advertise the advantages of Hawaii from the Land's End of England to the backwoods of Turkey. Not that he expects to get many English immigrants, or that he wants many Turkish immigrants, but he wants everybody to know all about the islands in the mid-Pacific, and he wants them to feel that they are welcome any old time.

THE SOCIAL EVOLUTION.
As to the social evolution, Mr. Atkinson thinks the time has come to welcome the departure of the Chinese, Japanese, Portuguese and the various other "asses" from the Hawaiian Islands, and to extend the glad hand to a class of immigrants that will make good American citizens. Personally Mr. Atkinson likes the Chinese and the Japanese, and he does not deny them the credit for considerable development of the Territory, but he realizes, and the conservative business interests of the Territory realize, that what the islands need is good citizenship—men, and women, too, who will enter into the social and governmental organization, and who will co-operate with Uncle Sam to bring Hawaii up to the commercial, industrial and intellectual plane where rest her sister Territories and States.

Consequently Mr. Atkinson will direct his energies on Italy, Germany and France. He thinks that the people of these countries will be best adapted to the warm climate of the Hawaiian Islands, and he believes that in these three classes can be found the requisites of good citizenship. In order to induce these people to leave their respective fatherlands and try conclusions in a new country, Mr. Atkinson is empowered by the Territorial Board to offer homesteads, where the immigrant may locate, build his house and till the soil. He may devote his time to cultivating the sugar cane or coffee, or he may turn his talents to producing the ordinary vegetables for market. Whatever he wants to do, the immigrant will have ample opportunity, and the moral and substantial support of the Territorial Board.

WILL NOT ASK MODIFICATION OF LAW.
In view of this, Mr. Atkinson is not sorry that the Chinese are leaving and he will not join hands with the prince-delegate to urge Congress to ameliorate labor conditions in the islands by modifying the Chinese exclusion laws. Mr. Atkinson will leave Monday for New York, where he is to be a delegate to the convention of the civic federation, which begins December 6. The federation probably will devote considerable time to a discussion of the immigration problems affecting all the States and Territories under this government, and Mr. Atkinson may have an interesting word to say when the convention calls on Hawaii.

G. P. Norton, collector of the Sanitary Steam Laundry, and Miss Rebecca Clark of Lahaina, Maui, were married Saturday evening by Rev. W. D. Westervelt, at 609 Marion street. Following the ceremony the guests enjoyed a little supper and a wedding cake was cut and distributed.

GREAT METHODIST DIVINE IS COMING TO HONOLULU



BISHOP HAMILTON OF SAN FRANCISCO.

One of the most noted bishops of the Methodist Episcopal Church is John W. Hamilton, D. D., LL.D., of San Francisco, who will arrive here in the steamship Manchuria the 22nd inst. and remain several weeks in the islands. Bishop Hamilton was born in Old Virginia in the early forties. He was educated in Ohio, graduating from Mt. Union College in '65 and completing his studies in Boston, receiving the degree of M. A. from Boston University in '70. Later he was honored with D. D. from Wesleyan University, Connecticut, and LL.D. from the University of Southern California.

Bishop Hamilton began his remarkable career as a great preacher and pastor in Pittsburg, Penn., from which city he was, upon request, transferred to Boston, and became the founder of the now well-known "People's Church," of which he was a pastor for nine consecutive years with remarkable success as a pulpit orator and great organizer. He was elected by his annual conference with larger voting majorities as a delegate to the Quadrennial General Conferences in '84, '88, '92, '96 and 1900. In the latter year he was elected bishop and since that has resided in San Francisco, traveling extensively throughout the country. The Bishop

was also elected as a member of the great Ecumenical Conference at Washington in '91, and was sent by the Board of Bishops as a fraternal delegate to the Methodist conference in England and Ireland a few years ago.

Bishop Hamilton is also an author of high rank and such works as "Tea-rose Lee and the Old Elm" are widely read. He is an indefatigable worker, and it is no exaggeration to say that he has raised directly or indirectly a half-million dollars for Pacific Coast Methodists during his five years' residence in San Francisco. He appears frequently on the lecture platform and always attracts crowded houses. He has been secured for at least two lectures while in the city, one on "Some Persons I Have Known in Boston," which will be delivered in Punahou College, Friday evening, January 6, the other on "Mexico; Its Marauders, Miracles, Men"—place and time to be announced later.

Mrs. Hamilton and their daughter Gertrude will accompany the Bishop, as well as two or three other personal friends. Arriving on Friday next, he will occupy the pulpit of the First M. E. church of this city next Sunday both morning and evening, and then preach at the organization of the Missionary Conference of the Methodist Workers of the Islands, December 28-31, of which John W. Wadman is the superintendent.

CONSUL SAITO'S OPINIONS WANTED

Cosul-General Miki Saito will leave for Japan by the S. S. Manchuria, which is due to leave here on or about the 23rd inst. He goes to Japan under a leave of absence of about two or three months at the request of his government.

The following cablegram was received by him a few days ago:
"Saito: Your opinions on matters are urgently required. Return at your earliest possible convenience. KATSURA."

Mr. Saito is in receipt of advice that Minister Takahira at Washington is expected to leave for Japan and will probably take the Manchuria, leaving San Francisco on the 16th inst.

During Mr. Saito's absence, Mr. K. Matsubara, Elevator-Consul, will take charge of the consulate at Honolulu.

PINKHAM REPLIES TO MATTHEWMAN

Honolulu, Hawaii, Dec. 18, 1905.
Judge J. A. Matthewman, Kahua, Hawaii.

Sir: Your favor of 11th inst. at hand. The Board and its agents are familiar with Section 1122 Revised Laws. Its execution involves publicity, humiliation, and opens an opportunity for injurious and indefinite gossip. The Board believes voluntary and private consent for examination at Honolulu would obviate the distressing features of legal procedure, in fact no publicity is necessary any more than that involved in consulting a private physician.

As to between voluntary humanitarian methods and technical legal methods, this Board will at all times instruct its agents and use its influence that the former prevail over the latter and only resort to the latter when forced to do so.

I am not aware that informing you of the policy of the Board constitutes either advice or interference. I am, respectfully,

(Signed) L. E. PINKHAM,
President Board of Health.

The Theo. H. Davies & Co. calendar for 1906 is a large and handsome lithograph containing a map of the world, one of the Hawaiian Islands and one of the Pacific. There are also pictures illustrating the sugar industry in its various stages, the fruits of Hawaii, etc., and the Davies buildings. The top of the big sheet is illuminated and the calendar part proper, also in colors, is at the bottom.

Ewa begins grinding the new crop tomorrow.

GOVERNOR AND SENATOR

(Continued from Page 1.)

vides up to the full amounts mentioned.

Every resident of any district desires to have money expended in his district, and is perfectly willing to sign a petition therefor. But the question is broader and more comprehensive than these petitions indicate. It involves the wisdom of a further indebtedness, the Territory's ability to pay, the fact (of which many citizens are probably not aware) that the Territory will, with the small amount of bonds issued, be paying nearly \$500,000 a day interest.

The situation is exceptional because of the changes that took place in adoption and putting into practice a county form of government.

In this connection, I enclose you copy of a message sent by me to the Legislature on May 29th last, which possibly you may have forgotten.

I had also supposed that the petitions would bear out and were intended to enforce the statement forwarded by yourself and five other members of the last Legislature to the President at Washington, in which you claim that the \$750,000.00 of bonds which the Territory is about to sell in New York have never received legislative consideration or approval, and through which you have endeavored to mislead the public into the belief that I was acting in defiance of the Legislature; that there was no authority of law for the issuance of these bonds, and that the people of the Territory did not approve of the attitude I had taken in the matter.

You and those who signed the petition with you must be aware of the fact that there has never been a loan appropriation made by the Legislature under which it has been possible to expend every dollar appropriated, and that no Legislature expects to do more than set the limits within which the Executive is to act.

You are, of course, not aware of the number of people that have gone to the trouble to let me know that they support the attitude I have taken, and their statements convince me that it is not by any means certain that the people of Hawaii nei disagree with my action. I have sufficient confidence in them to believe that they are too intelligent to be led astray by your statement. They know too well my attitude in relation to such matters, and that in any difference between the Legislature and the Executive, the power rests absolutely with the representatives of the people.

Very sincerely yours,
G. R. CARTER,
Governor.

A Message to the Legislature of the Territory of Hawaii.

Recognizing the desire of so large a number of the out-of-town members to close this session of the Legislature in

time to allow them to take the outgoing steamer the early part of the week, I have signed Senate Bill No. 5, entitled "An Act Making Special Appropriations for the Use of the Government of the Territory of Hawaii during the two years which will end with the Thirtieth day of June, A. D. 1907," commonly known as the Loan Bill, as I find it impossible in the limited time to intelligently segregate those items which, in view of the proposed county system of government, should properly be expenditures on the part of the counties rather than the Territory; and also to secure the information necessary in deciding what other items are essential to the welfare of the Territory and, in view of our financial condition, advisable.

I have already sounded a note of warning, and called your attention to the rapidly with which our public debt has increased, and I am of the opinion that the amount of appropriations carried in this Bill are excessive, and reserve the question of their expenditure until they can be thoroughly examined.

G. R. CARTER,
Governor.

Executive Chamber, May 29, 1905.

THE SENATOR'S REPLY.
Honolulu, T. H., December 16, 1905.
Hon. George R. Carter, Governor of the Territory of Hawaii, Honolulu, Oahu.

Dear Sir: Your communication of the 9th inst. was received by me on December 13th. In reply to the same I would ask you to please note that the amounts petitioned for by the several districts correspond with the items appropriated for such districts by the Legislature and approved by the Governor.

Your supposition as to what the character of the petitions might be does not alter the same. Your remark "that every resident of any district desires to have money expended in his district and is perfectly willing to sign a petition therefor" is wholly inapplicable to this case. The people are asking the Executive for the appropriations with which to carry out the improvements in their several districts—appropriations secured for them by their representatives in the Legislature, and are taxpayers as you and I are taxpayers. We have every reason to believe that they realize the responsibility of the Territory's indebtedness and its ability to pay as did the Legislature when the Loan Bill was authorized or as did the Executive when he recommended by message to the Legislature a loan of \$1,000,000.00.

You speak of the County form of government as affecting the situation. I fail to see that. The responsibility rests with the people as before the County Act went into effect, and you will please recall that the County Act was passed during the regular session of the Legislature, at least 30 days prior to the passage of the Loan Bill, a work of the extra session.

Your message to the Legislature, informing same that you had approved the Loan Bill, has, in nowise, been forgotten by me. In this message you remark "recognizing a desire of so large a number of the out-of-town members to close this session of the Legislature in time to allow them to take the outgoing steamers the early part of the week" and reserve the question of their expenditure (meaning Loan Appropriations) until they can be thoroughly examined." Let me ask what authority you have for making any such reservation? The Organic Act reads, "If he (the Governor) approves it, he shall sign it, and it shall become a law"—outgoing steamers not even being mentioned. This Loan Bill having been passed by such a large majority of both houses gives as every reason to believe that and you vetoed same, your veto would have been over-ridden as was your veto of the County Act. Had you at that time considered yourself privileged to modify the Loan Bill, why get behind such a message except to prevent the Legislature from overriding a veto?

Your second supposition as to the petitions, referring to the \$750,000.00 bond issue, I still contend that the Executive has usurped the power of the Legislature in ignoring the Loan Bill of \$1,377,000.00, passed at last session, by sifting and substituting a loan of \$750,000.00, and I have not endeavored to mislead the public. These are facts. I thank you for the term "in defiance of the Legislature."

I agree with you that no Legislature expects to do more than set the limit within which the Executive is to act but would add that no Executive is expected to change that limit.

No doubt a number of people support the attitude you have taken, but you must be aware that a great many people differ from you, and because they differ from you is no proof of lack of intelligence on their part. At least give the people credit for having sufficient intelligence to judge for themselves as to whether the judgment of one man should prevail as against the judgment of the Legislature.

In conclusion let me say that the petitions of the people yet remain unanswered.

Yours truly,
L. M. CANDLESS.

AN ATTACK OF CROUP WARDED OFF.

"Our little girl, two and one-half years old, woke up coughing with the croup one evening recently. We happened to have some of Chamberlain's Cough Remedy on hand and gave her two doses of it. She went back to sleep and woke up next morning without a trace of cold. It is certainly a great medicine," says A. J. Luginbill, editor of Star, Villa Rica, Georgia, U. S. A. An attack of croup can always be warded off by giving this remedy as soon as the croupy cough appears. It has been in use for many years and has never been known to fail. It contains no harmful drug and may be given to the smallest child with perfect confidence. For sale by all dealers and druggists. Benson, Smith & Co., Ltd., agents for Hawaii.

Mrs. K. Singer of this city received the sad news of the death of her son-in-law, Mr. Jas. W. Smith, by Friday's mail. Mr. Smith died on November 13 aboard the S. S. Astec, of which he was chief engineer, at La Union, Central America. Mr. Smith leaves a widow and five children in San Francisco.

THE NAVY FUNERAL

Arrangements have been completed for the military funeral to be held over the remains of Fleet Surgeon D. G. Lewis of the Pacific Squadron, this morning, at 10 o'clock. The body will be brought aboard the cruiser Chicago in the morning from the undertaking parlors where it now lies. On the flagship of the Pacific squadron services will be held beginning at 10 o'clock, when the union jack and ensign of the cruiser will be lowered to half mast. Rev. Father James C. Deibel of the Catholic Mission will officiate. The coffin will be draped with a union jack and the colors of the Marine Corps will be draped.

The pall bearers will be Commander C. J. Badger, U. S. N., Commander of the Chicago; Pay Inspector T. H. Hicks, U. S. N., of the Chicago; Lieut. Commander F. W. Bartlett, U. S. N., of the Chicago; Lieut. Commander A. P. Niblack, U. S. N., Captain of the Navy Yard; Major V. H. Fuller, U. S. M. C., Commander of the Marine Barracks; and Lieut. Commander A. B. Halstead, U. S. N., of the Chicago.

The escort will consist of a company of marines from the Chicago, one company of marines from the marine barracks and two companies of the jackets from the Chicago. The escort will be under the command of Lieut. Commander W. P. White, U. S. N., executive officer of the Chicago.

At the conclusion of the ceremonies on board the flagship, the escort will form on the dock and present arms as the body leaves the ship, the band playing a march. The funeral procession will then form and march to King street and out King street to the Catholic cemetery near Thomas square. As there is not room in the cemetery for the entire escort, it will form on King street and present arms as the casket leaves the hearse and until it is deposited in the receiving vault, the band playing a march. After the service at the vault, the entire escort will fire three volleys. The ship's bugler then goes to the door of the vault and sounds "taps." The escort thereupon will return to the ship and the cruiser's flags will be again raised to full mast.

The order of the procession will be as follows:

The Flagship Band.
The Flagship's Marines.
The Barracks Marines.
Blue Jackets.
The Clergyman.
The Body.
The Pall Bearers.
The Body Bearers.
The Mourners (in the inverse order of their rank).

Among the mourners will be officers of the Marine barracks and Naval station, and of the army from Camp McKinley. The detail for the body bearers, which is required to consist of eight petty officers, is Chief Boatswain's Mate Miner, Hospital Steward Kellers, Chief Yeoman Settle, Chief Yeoman Smith, Chief Yeoman S. H. Peters, Chief Electrician Falconer, Chief Electrician W. F. Peters, First Machinist's Mate Foster and First Water Tender Coffee.

It is not yet known whether the remains will be forwarded by the Ventura or not, the executive officer thinking that they would but the commander being quoted as of the opinion that it would take five or six days to communicate with the relatives and obtain their decision in the matter. Transportation, in any event, will be paid for by the United States.

PLENTY OF CHEER FOR KONA ORPHANS

Besides some money and a number of packages received and forwarded by the Gazette Company to the Kona Orphanage, the following gifts have been received by Trent & Co.:

Honolulu Candy Co.—One box candies.

Henry May & Co.—Two boxes apples, two boxes raisins, two boxes contents unknown.

Mrs. Dickerson—Two boxes hats.

Mrs. John Oederkirk—One package toys.

Mulford Lawrence—One package contents unknown.

Mrs. Tenney Peck—One package contents unknown.

Bishop Estate—One package contents unknown.

No Name—One package.

Mrs. E. W. Jordan—Two books.

Jack and Carter Galt—One box marbles and one package contents unknown.

American Brokerage—One bag potatoes, one bag onions, two boxes apples.

Cash	.....	\$ 1.00
Cash	.....	1.00
Cash	.....	2.00
Cash	.....	5.00
Cash	.....	5.00
Cash	.....	5.00
Cash	.....	5.00
Cash	.....	10.00
Cash	.....	10.00
Cash	.....	200.00
Cash	.....	10.00

Total cash received.....\$265.00

Packages may be left at Trent & Co.'s office or this office up to 10 o'clock Tuesday morning.

Mrs. Goodrich, Mrs. Lyon and Miss Goodrich leave for Hilo today in the Kinau. They will join Admiral Goodrich and Captain Lyon on the arrival of the cruiser Chicago at Hilo. The party will visit the volcano. The Goodrich party which went around Oahu on horseback returned to the city yesterday afternoon.